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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,584	01/18/2005	Andreas Reindl	BASF.10029	5231

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HUTCHISON LAW GROUP PLLC
PO BOX 31686
RALEIGH, NC 27612

EXAMINER

KALLIS, RUSSELL

ART UNIT	PAPER NUMBER
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1638

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
31 DAYS	04/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/521,584	Applicant(s) REINDL, ANDREAS	
	Examiner Russell Kallis	Art Unit 1638	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/18/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1,4,9,12-13,16 drawn to the use of a nucleic acid of SEQ ID NO: 1 encoding a NADH-deopendent cytochrome b5 reductase as target for identifying herbicidally active compounds; and a method of detecting functional analogues of the nucleic acid of SEQ ID NO: 1; a method of identifying an herbicidally active compound in a transformed yeast.

Group II, claim(s) 1,4,9,12-13,16 drawn to the use of a nucleic acid of SEQ ID NO: 1 encoding a NADH-deopendent cytochrome b5 reductase as target for identifying herbicidally active compounds; and a method of detecting functional analogues of the nucleic acid of SEQ ID NO: 1; a method of identifying an herbicidally active compound in a transformed plant.

Group III, claim(s) 2,5-7, drawn to a plant nucleic acid sequence of SEQ ID NO: 3 encoding a polypeptide with NADH-dependent cytocheome b5 reductase activity; an expression cassette and vector, and transformed organism thereof.

Group IV, claim(s) 3, 8-11,16 drawn to a polypeptide with the activity of an NADH-dependent cytochrome b5 reductase as target for identifying herbicidally active compounds; and the use thereof for identifying herbicidally active compounds in untransformed organisms or in vitro.

Group V, claim(s) 14,16, drawn to a method of identifying growth regulatory compounds on a transgenic plant.

Group VI, claim(s) 15, drawn to a vehicle.

Group VII, claim(s) 17, drawn to an herbicidally active compound.

Group VIII, claim(s) 18, drawn to a growth regulating compound.

Group IX, claim(s) 19, drawn to a process for preparing an agrochemical composition.

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Group X, claim(s) 20, drawn to a method for controlling undesired vegetation.

Group XI, claim(s) 21, drawn to the use of a compound or chemical formulation for controlling undesired vegetation or regulating the growth of plants.

Group XII, claim(s) 22-23, drawn to a method for generating nucleic acid sequences.

Group XIII, claim(s) 24-25, drawn to a method of making a transgenic plant and the plant thereof.

Group XIV, claim(s) 26, drawn to the use of compounds that block NADH-dependent cytochrome b5 reductase activity to control undesired plant growth or regulate plant growth.

The inventions listed as Groups I-XIV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: because polynucleotides encoding a NADH-dependent cytochrome b5 reductase were known in the art. Fukuchi M. et al. teach cloning a DNA encoding a NADH-dependent cytochrome b5 reductase (Plant Physiology, January 1999; Vol. 119. pp. 353-361; see abstract).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In

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either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell Kallis whose telephone number is (571) 272-0798. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571) 272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Russell Kallis Ph.D.
March 31, 2007

RUSSELL P. KALLIS, PH.D.
PRIMARY EXAMINER

Russell Kallis